

AMENDED IN ASSEMBLY JUNE 28, 2007

AMENDED IN SENATE APRIL 24, 2007

AMENDED IN SENATE APRIL 9, 2007

AMENDED IN SENATE MARCH 28, 2007

SENATE BILL

No. 523

Introduced by Senator Yee

February 22, 2007

An act *to amend Section 17400 of, and to amend, repeal, and add Section 4505 of, the Family Code, relating to child support.*

LEGISLATIVE COUNSEL'S DIGEST

SB 523, as amended, Yee. Child support: order to seek employment.

~~Existing~~

(1) *Existing* law allows a court, in any proceeding in which there is at issue the support of a child for whom support is authorized under specified provisions of law, to order either or both parents to pay an amount necessary for the support of the child. Existing law allows a court to issue various orders to enforce a delinquent child support obligation, including an order requiring the delinquent parent to submit to any of specified entities, each 2 weeks or at a frequency deemed appropriate by the court, a list of at least 5 different places the parent has applied for employment.

This bill would, until January 1, ~~2014~~ 2011, establish a pilot project in the County of San Mateo to allow ~~a~~ *the superior* court to order a parent, concurrent with an initial child support order, to submit to the appropriate child support enforcement agency, or any other entity designated by the court, a list of at least 5 different places to which the parent has applied for employment. It would allow the court to issue

that order only upon the ~~execution~~ *filing* of a declaration by a child support enforcement officer of the local child support enforcement agency meeting specified conditions. The bill would prohibit the court from issuing a citation for contempt for the failure of the parent to comply with the order unless the parent has become delinquent in his or her child support payments. *This bill would require the San Mateo child support enforcement agency to report to the Department of Child Support Services and the Legislature, on or before January 1, 2010, on the cost and performance of the pilot program. By increasing the duties of a local entity the bill would impose a state-mandated local program.*

(2) *Existing law requires each county to maintain a local child support agency that is responsible for establishing, modifying, and enforcing child support obligations, including medical support, enforcing spousal support orders, and determining paternity, as specified.*

This bill would authorize a local child support agency to substitute original signatures with any form of electronic signatures on pleadings filed for the purpose of establishing, modifying, or enforcing paternity, child support, or medical support, except for pleadings or documents required to be signed under penalty of perjury.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 4505 of the Family Code is amended to
- 2 read:
- 3 4505. (a) A court may require a parent who alleges that the
- 4 parent's default in a child or family support order is due to the
- 5 parent's unemployment to submit to the appropriate child support
- 6 enforcement agency or any other entity designated by the court,
- 7 including, but not limited to, the court itself, each two weeks, or
- 8 at a frequency deemed appropriate by the court, a list of at least
- 9 five different places the parent has applied for employment.

(b) (1) The Superior Court of the County of San Mateo may order a parent, concurrent with an initial order for the parent to pay child support, to submit to the appropriate child support enforcement agency or any other entity designated by the court, each two weeks, or at a frequency deemed appropriate by the court, a list of at least five different places the parent has applied for employment during the previous two-week period or other designated interval. The court may issue that order only upon the filing of a declaration by a child support enforcement officer of the local child support enforcement agency satisfying the following conditions:

(A) The declaration states ~~either of the following:~~

~~(i) The that the child support enforcement officer has conducted an evaluation of the income and earning ability of the parent.~~

~~(ii) The child support enforcement officer has been unable to locate the parent, identify the parent's income, or assess the earning ability of the parent after providing or attempting to provide written communication of the need for the information.~~

(B) The declaration details the communication, if any, between the obligor and the child support enforcement officer or the San Mateo County child support enforcement agency.

(C) The declaration states both of the following:

(i) The child support enforcement officer believes that, unless ordered by the court to seek employment under this subdivision, the parent would ignore the child support order and would be likely to default on his or her child support obligation.

(ii) The reasons for that belief.

(2) The Superior Court of the County of San Mateo shall not issue a citation for contempt for the failure of a parent to comply with an order issued pursuant to paragraph (1) unless the parent has become delinquent in his or her child support payments.

(3) The San Mateo County child support enforcement agency shall report to the department and the appropriate committees of the Legislature, on or before ~~September 1, 2012~~ *January 1, 2010*, on the *cost and* performance of the pilot program described in this ~~subdivision.~~ *subdivision, including both of the following:*

(A) The number of parents issued contempt citations and the effect of the citation on their employment status and support payments.

1 (B) *The unemployment rate of, and the amount of support*
2 *collected from, parents who are ordered to seek work pursuant to*
3 *this subdivision compared with the unemployment rate of, and*
4 *amount of support collected from, parents who are not subject to*
5 *these orders.*

6 (4) All costs related to the pilot program established in this
7 subdivision shall be borne by the County of San Mateo.

8 (c) This section shall remain in effect only until January 1, ~~2014~~
9 2011, and as of that date is repealed, unless a later enacted statute,
10 that is enacted before January 1, ~~2014~~ 2011, deletes or extends
11 that date.

12 SEC. 2. Section 4505 is added to the Family Code, to read:

13 4505. (a) A court may require a parent who alleges that the
14 parent's default in a child or family support order is due to the
15 parent's unemployment to submit to the appropriate child support
16 enforcement agency or any other entity designated by the court,
17 including, but not limited to, the court itself, each two weeks, or
18 at a frequency deemed appropriate by the court, a list of at least
19 five different places the parent has applied for employment.

20 (b) This section shall become operative on January 1, ~~2014~~
21 2011.

22 SEC. 3. Section 17400 of the Family Code is amended to read:

23 17400. (a) Each county shall maintain a local child support
24 agency, as specified in Section 17304, that shall have the
25 responsibility for promptly and effectively establishing, modifying,
26 and enforcing child support obligations, including medical support,
27 enforcing spousal support orders established by a court of
28 competent jurisdiction, and determining paternity in the case of a
29 child born out of wedlock. The local child support agency shall
30 take appropriate action, including criminal action in cooperation
31 with the district attorneys, to establish, modify, and enforce child
32 support and, ~~when if~~ appropriate, enforce spousal support orders
33 ~~when if~~ the child is receiving public assistance, including Medi-Cal,
34 and, ~~when if~~ requested, shall take the same actions on behalf of a
35 child who is not receiving public assistance, including Medi-Cal.

36 (b) (1) Notwithstanding Sections 25203 and 26529 of the
37 Government Code, attorneys employed within the local child
38 support agency may direct, control, and prosecute civil actions
39 and proceedings in the name of the county in support of child

1 support activities of the Department of Child Support Services and
2 the local child support agency.

3 *(2) Notwithstanding any other law, and except for pleadings or*
4 *documents required to be signed under penalty of perjury, a local*
5 *child support agency may substitute original signatures with any*
6 *form of electronic signatures, including, but not limited to, typed,*
7 *digital, or facsimile images of signatures, digital signatures, or*
8 *other computer-generated signatures, on pleadings filed for the*
9 *purpose of establishing, modifying, or enforcing paternity, child*
10 *support, or medical support. Any substituted signature used by a*
11 *local child support agency shall have the same effect as an original*
12 *signature, including, but not limited to, the requirements of Section*
13 *128.7 of the Code of Civil Procedure.*

14 (c) Actions brought by the local child support agency to establish
15 paternity or child support or to enforce child support obligations
16 shall be completed within the time limits set forth by federal law.
17 The local child support agency's responsibility applies to spousal
18 support only—~~where~~ *if* the spousal support obligation has been
19 reduced to an order of a court of competent jurisdiction. In any
20 action brought for modification or revocation of an order that is
21 being enforced under Title IV-D of the Social Security Act (42
22 U.S.C. Sec. 651 et seq.), the effective date of the modification or
23 revocation shall be as prescribed by federal law (42 U.S.C. Sec.
24 666(a)(9)), or any subsequent date.

25 (d) (1) The Judicial Council, in consultation with the department
26 and representatives of the California Family Support Council, the
27 Senate Committee on Judiciary, the Assembly Committee on
28 Judiciary, and a legal services organization providing representation
29 on child support matters, shall develop simplified summons,
30 complaint, and answer forms for any action for support brought
31 pursuant to this section or Section 17404. The Judicial Council
32 may combine the summons and complaint in a single form.

33 (2) The simplified complaint form shall provide notice of the
34 amount of child support that is sought pursuant to the guidelines
35 set forth in Article 2 (commencing with Section 4050) of Chapter
36 2 of Part 2 of Division 9 based upon the income or income history
37 of the support obligor as known to the local child support agency.
38 If the support obligor's income or income history is unknown to
39 the local child support agency, the complaint shall inform the
40 support obligor that income shall be presumed to be the amount

1 of the minimum wage, at 40 hours per week, established by the
2 Industrial Welfare Commission pursuant to Section 1182.11 of
3 the Labor Code unless information concerning the support obligor's
4 income is provided to the court. The complaint form shall be
5 accompanied by a proposed judgment. The complaint form shall
6 include a notice to the support obligor that the proposed judgment
7 will become effective if he or she fails to file an answer with the
8 court within 30 days of service. Except as provided in paragraph
9 (2) of subdivision (a) of Section 17402, if the proposed judgment
10 is entered by the court, the support order in the proposed judgment
11 shall be effective as of the first day of the month following the
12 filing of the complaint.

13 (3) (A) The simplified answer form shall be written in simple
14 English and shall permit a defendant to answer and raise defenses
15 by checking applicable boxes. The answer form shall include
16 instructions for completion of the form and instructions for proper
17 filing of the answer.

18 (B) The answer form shall be accompanied by a blank income
19 and expense declaration or simplified financial statement and
20 instructions on how to complete the financial forms. The answer
21 form shall direct the defendant to file the completed income and
22 expense declaration or simplified financial statement with the
23 answer, but shall state that the answer will be accepted by a court
24 without the income and expense declaration or simplified financial
25 statement.

26 (C) The clerk of the court shall accept and file answers, income
27 and expense declarations, and simplified financial statements that
28 are completed by hand provided they are legible.

29 (4) (A) The simplified complaint form prepared pursuant to
30 this subdivision shall be used by the local child support agency or
31 the Attorney General in all cases brought under this section or
32 Section 17404.

33 (B) The simplified answer form prepared pursuant to this
34 subdivision shall be served on all defendants with the simplified
35 complaint. Failure to serve the simplified answer form on all
36 defendants shall not invalidate any judgment obtained. However,
37 failure to serve the answer form may be used as evidence in any
38 proceeding under Section 17432 of this code or Section 473 of the
39 Code of Civil Procedure.

1 (C) The Judicial Council shall add language to the governmental
2 summons, for use by the local child support agency with the
3 governmental complaint to establish parental relationship and child
4 support, informing defendants that a blank answer form should
5 have been received with the summons and additional copies may
6 be obtained from either the local child support agency or the
7 superior court clerk.

8 (e) In any action brought or enforcement proceedings instituted
9 by the local child support agency pursuant to this section for
10 payment of child or spousal support, an action to recover an
11 arrearage in support payments may be maintained by the local
12 child support agency at any time within the period otherwise
13 specified for the enforcement of a support judgment,
14 notwithstanding the fact that the child has attained the age of
15 majority.

16 (f) The county shall undertake an outreach program to inform
17 the public that the services described in subdivisions (a) to (c),
18 inclusive, are available to persons not receiving public assistance.
19 There shall be prominently displayed in every public area of every
20 office of the agencies established by this section a notice, in clear
21 and simple language prescribed by the Director of Child Support
22 Services, that the services provided in subdivisions (a) to (c),
23 inclusive, are provided to all individuals, whether or not they are
24 recipients of public assistance.

25 (g) (1) In any action to establish a child support order brought
26 by the local child support agency in the performance of duties
27 under this section, the local child support agency may make a
28 motion for an order effective during the pendency of that action,
29 for the support, maintenance, and education of the child or children
30 that are the subject of the action. This order shall be referred to as
31 an order for temporary support. This order has the same force and
32 effect as a like or similar order under this code.

33 (2) The local child support agency shall file a motion for an
34 order for temporary support within the following time limits:

35 (A) If the defendant is the mother, a presumed father under
36 Section 7611, or any father ~~where~~ *if* the child is at least six months
37 old when the defendant files his or her answer, the time limit is 90
38 days after the defendant files an answer.

39 (B) In any other case ~~where~~ *in which* the defendant has filed an
40 answer prior to the birth of the child or not more than six months

1 after the birth of the child, then the time limit is nine months after
2 the birth of the child.

3 (3) If more than one child is the subject of the action, the
4 limitation on reimbursement shall apply only as to those children
5 whose parental relationship and age would bar recovery were a
6 separate action brought for support of that child or those children.

7 (4) If the local child support agency fails to file a motion for an
8 order for temporary support within *the* time limits specified in this
9 section, the local child support agency shall be barred from
10 obtaining a judgment of reimbursement for any support provided
11 for that child during the period between the date the time limit
12 expired and *the date* the motion was filed, or, if no motion is filed,
13 when a final judgment is entered.

14 (5) Except as provided in Section 17304, nothing in this section
15 prohibits the local child support agency from entering into
16 cooperative arrangements with other county departments as
17 necessary to carry out the responsibilities imposed by this section
18 pursuant to plans of cooperation with the departments approved
19 by the Department of Child Support Services.

20 (6) Nothing in this section otherwise limits the ability of the
21 local child support agency from securing and enforcing orders for
22 support of a spouse or former spouse as authorized under any other
23 ~~provision of law.~~

24 (h) As used in this article, “enforcing obligations” includes, but
25 is not limited to, ~~any~~ *all* of the following:

26 (1) The use of all interception and notification systems operated
27 by the department for the ~~purposes~~ *purpose* of aiding in the
28 enforcement of support obligations.

29 (2) The obtaining by the local child support agency of an initial
30 order for child support that may include medical support or that
31 is for medical support only, by civil or criminal process.

32 (3) The initiation of a motion or order to show cause to increase
33 an existing child support order, and the response to a motion or
34 order to show cause brought by an obligor parent to decrease an
35 existing child support order, or the initiation of a motion or order
36 to show cause to obtain an order for medical support, and the
37 response to a motion or order to show cause brought by an obligor
38 parent to decrease or terminate an existing medical support order,
39 without regard to whether the child is receiving public assistance.

1 (4) The response to a notice of motion or order to show cause
2 brought by an obligor parent to decrease an existing spousal support
3 order ~~when~~ if the child or children are residing with the obligee
4 parent and the local child support agency is also enforcing a related
5 child support obligation owed to the obligee parent by the same
6 obligor.

7 (5) The referral of child support delinquencies to the Franchise
8 Tax Board under subdivision (c) of Section 17500 in support of
9 the local child support agency.

10 (i) As used in this section, “out of wedlock” means that the
11 biological parents of the child were not married to each other at
12 the time of the child’s conception.

13 (j) (1) The local child support agency is the public agency
14 responsible for administering wage withholding for current support
15 for the purposes of Title IV-D of the Social Security Act (42 U.S.C.
16 Sec. 651 et seq.).

17 (2) Nothing in this section limits the authority of the local child
18 support agency granted by other sections of this code or otherwise
19 granted by law.

20 (k) In the exercise of the authority granted under this article,
21 the local child support agency may intervene, pursuant to
22 subdivision (b) of Section 387 of the Code of Civil Procedure, by
23 ex parte application, in any action under this code, or other
24 proceeding in which child support is an issue or a reduction in
25 spousal support is sought. By notice of motion, order to show
26 cause, or responsive pleading served upon all parties to the action,
27 the local child support agency may request any relief that is
28 appropriate that the local child support agency is authorized to
29 seek.

30 (l) The local child support agency shall comply with all
31 regulations and directives established by the department that set
32 time standards for responding to requests for assistance in locating
33 noncustodial parents, establishing paternity, establishing child
34 support awards, and collecting child support payments.

35 (m) As used in this article, medical support activities that the
36 local child support agency is authorized to perform are limited to
37 the following:

38 (1) The obtaining and enforcing of court orders for health
39 insurance coverage.

1 (2) Any other medical support activity mandated by federal law
2 or regulation.

3 (n) (1) Notwithstanding any other law, venue for an action or
4 proceeding under this division shall be determined as follows:

5 (A) Venue shall be in the superior court in the county that is
6 currently expending public assistance.

7 (B) If public assistance is not currently being expended, venue
8 shall be in the superior court in the county where the child who is
9 entitled to current support resides or is domiciled.

10 (C) If current support is no longer payable through, or
11 enforceable by, the local child support agency, venue shall be in
12 the superior court in the county that last provided public assistance
13 for actions to enforce arrearages assigned pursuant to Section
14 11477 of the Welfare and Institutions Code.

15 (D) If subparagraphs (A), (B), and (C) do not apply, venue shall
16 be in the superior court in the county of residence of the support
17 obligee.

18 (E) If the support obligee does not reside in California, and
19 subparagraphs (A), (B), (C), and (D) do not apply, venue shall be
20 in the superior court of the county of residence of the obligor.

21 (2) Notwithstanding paragraph (1), if the child becomes a
22 resident of another county after an action under this part has been
23 filed, venue may remain in the county where the action was filed
24 until the action is completed.

25 (o) The local child support agency of one county may appear
26 on behalf of the local child support agency of any other county in
27 an action or proceeding under this part.

28 ~~SEC. 3.~~

29 *SEC. 4.* No reimbursement is required by this act pursuant to
30 Section 6 of Article XIII B of the California Constitution because
31 the only costs that may be incurred by a local agency or school
32 district are the result of a program for which legislative authority
33 was requested by that local agency or school district, within the
34 meaning of Section 17556 of the Government Code and Section
35 6 of Article XIII B of the California Constitution.